

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SPENCER RAY WNUK,

Plaintiff,

v.

DIANE MERWIN and TIM HAINES,

Defendants.

ORDER

11-cv-761-slc

Plaintiff Spencer Wnuk, a prisoner at the Wisconsin Secure Program Facility in Boscobel, Wisconsin has submitted a proposed complaint under 42 U.S.C. 1983. He requests leave to proceed *in forma pauperis*. A decision on the request will be delayed until plaintiff pays an initial partial payment of the \$350 filing fee as required by 28 U.S.C. § 1915(b) and the 1996 Prison Litigation Reform Act. Plaintiff's initial partial payment cannot be calculated at this time because the trust fund account statement that he provides does not cover the entire six month period preceding the filing of his complaint.

Plaintiff's complaint was submitted on November 1, 2011. The trust fund account statement that he provides covers only a one and a half month period beginning September 15, 2011 and ending November 7, 2011. I can see from plaintiff's trust fund account statement that he was previously held at the Jackson Correctional Institution. Under 28 U.S.C. § 1915(a)(2), when a prisoner is incarcerated at one or more institutions during the six-month period immediately preceding the filing of his lawsuit, he must obtain a trust fund account statement "from the appropriate official of each prison at which [he] is or was confined" during the relevant period. Therefore, if plaintiff was incarcerated at the Jackson Correctional Institution or any other institution between May 1, 2011 and September 15, 2011, he will have to write to that institution to request a certified copy of his trust fund account statement for the

relevant period. Once plaintiff has submitted the necessary statement, I will calculate his initial partial payment and advise him of the amount he will have to pay before the court can screen the merits of his complaint under § 1915(e)(2). Plaintiff should show a copy of this order to the appropriate prison officials to insure that they are aware they should send a copy of plaintiff's trust fund account statement for the May 1, 2011 to September 15, 2011 period to this court.

ORDER

IT IS ORDERED that plaintiff Spencer Wnuk may have until December 2, 2011, in which to submit a certified copy of his trust fund account statement for the period beginning approximately May 1, 2011 and ending approximately September 15, 2011. If, by December 2, 2011, plaintiff fails to respond to this order, I will assume that he wishes to withdraw this action voluntarily. In that event, the clerk of court is directed to close this case without prejudice to plaintiff's filing his case at a later date.

Entered this 10th day of November, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge